

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re: : Case No. 16-11895 (JLG)
: :
CHINA FISHERY GROUP LIMITED : Chapter 11 (Jointly Administered)
(CAYMAN), et al., : :
: :
Debtors. :
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In re: : Case No. 16-11914 (JLG)
: :
CFG PERU INVESTMENTS PTE. LTD. : Chapter 11
(SINGAPORE), : :
: :
Debtor. :
-----X

WILLIAM A. BRANDT, JR., AS TRUSTEE OF : Adv. Pro. No. 18-01575
CFG PERU INVESTMENTS PTE. LTD. :
(SINGAPORE), :
Plaintiff, :
: :
v. :
: :
THE HONGKONG AND SHANGHAI :
BANKING CORPORATION LIMITED, :
: :
Defendant. :
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**SIXTH STIPULATION BY AND AMONG WILLIAM A. BRANDT, JR., CHAPTER 11
TRUSTEE AND THE HONGKONG AND SHANGHAI BANKING CORPORATION
LIMITED CONCERNING (I) SERVICE OF AMENDED COMPLAINT
AND (II) INITIAL BRIEFING SCHEDULE**

This stipulation (the “Sixth Stipulation”) is made by and between William A. Brandt Jr., in his capacity as Chapter 11 Trustee of CFG Peru Investments Pte. Ltd. (Singapore) (the “Trustee”), on the one hand, and The Hongkong and Shanghai Banking Corporation Limited (“HSBC-HK”), on the other hand. The Trustee and HSBC-HK are collectively referred to herein as the “Parties.”

STIPULATION

WHEREAS, on June 29, 2018 (i) the Trustee filed a complaint against HSBC-HK [Adv. Pro. No. 18-01575, ECF No. 1] (the “Complaint”), commencing the above captioned adversary proceeding (this “Adversary Proceeding”) and (ii) counsel to the Trustee sent both redacted and unredacted versions of the Complaint to counsel to HSBC-HK by email and requested that such counsel accept service on behalf of HSBC-HK;

WHEREAS, on July 5, 2018, the Clerk of Court for the United States Bankruptcy Court for the Southern District of New York issued the *Summons and Notice of Pretrial Conference in an Adversary Proceeding* [Adv. Pro. No. 18-01575, ECF No. 3] (the “Summons”);

WHEREAS, on July 25, 2018, the Court approved the stipulation between the Parties, dated July 20, 2018, concerning service of the Complaint and Summons and an initial briefing schedule [Adv. Pro. No. 18-01575, ECF No. 5] (the “First Stipulation”);

WHEREAS, on September 10, 2018, the Court approved an amended stipulation between the Parties, dated September 5, 2018, which modified the briefing schedule set forth in the First Stipulation [Adv. Pro. No. 18-01575, ECF No. 6] (the “Second Stipulation”);

WHEREAS, on October 2, 2018, debtor China Fishery Group Limited filed the *Motion of China Fishery Group Limited (Cayman) to Intervene in the Trustee’s HSBC Adversary Proceeding* seeking to intervene in this Adversary Proceeding [Adv. Pro. No. 18-01575, ECF No. 7] (the “Motion to Intervene”);

WHEREAS, on October 11, 2018, the Court approved an amended stipulation between the Parties, dated October 9, 2018, which held in abeyance the briefing deadlines set forth in the Second Stipulation pending the Court’s resolution of the Motion to Intervene [Adv. Pro. No. 18-01575, ECF No. 8] (the “Third Stipulation”);

WHEREAS, on December 27, 2018, the Court denied the Motion to Intervene;

WHEREAS, on January 23, 2019, the Court approved an amended stipulation between the Parties, dated January 17, 2019, which modified the briefing schedule set forth in the Third Stipulation [Adv. Pro. No. 18-01575, ECF No. 21] (the “Fourth Stipulation”);

WHEREAS, on February 15, 2019, HSBC-HK filed the *Defendant The Hongkong and Shanghai Banking Corporation Limited’s Motion to Dismiss* [Adv. Pro. No. 18-01975, ECF No. 23];

WHEREAS, on March 8, 2019, the Trustee filed an amended complaint against HSBC-HK [Adv. Pro. No. 18-01875, ECF No. 27] (the “First Amended Complaint”);

WHEREAS, HSBC-HK has determined that certain material in the First Amended Complaint is subject to legal privilege and elected to exercise its right under the Agreed Protective Order Governing Any Document, Electronically Stored Information or Other Information Produced by HSBC-HK to the Trustee [Chapter 11 Case No. 16-11895, ECF No. 1155] (the “Protective Order”) to recall the documents over which HSBC-HK asserts legal privilege (the “Covered Material”);

WHEREAS, the Trustee disputes the assertion of privilege with respect to the Covered Material and reserved all rights therewith;

WHEREAS, on March 28, 2019, the Court approved an amended stipulation between the Parties, dated March 22, 2019, which, among other things, modified the briefing schedule in the Fourth Stipulation and set forth the Parties’ agreement with respect to HSBC-HK’s recall of the Covered Material, the unsealing of portions of the First Amended Complaint, and the filing of a corrected First Amended Complaint by the Trustee [Adv. Pro. No. 18-01575, ECF No. 28] (the “Fifth Stipulation”);

WHEREAS, on March 29, 2019, HSBC-HK filed the *Defendant The Hongkong and Shanghai Banking Corporation Limited's Motion to Dismiss the First Amended Complaint* [Adv. Pro. No. 18-01975, ECF No. 31] (the "Motion to Dismiss the First Amended Complaint");

WHEREAS, on April 18, 2019, the Trustee filed a corrected version of the First Amended Complaint (the "Corrected First Amended Complaint") [Adv. Pro. No. 18-01975, ECF No. 34] reflecting the changes contemplated by paragraphs 4(d) and 7 of the Fifth Stipulation;

WHEREAS, the Parties have agreed to modify the briefing schedule set forth in the Fifth Stipulation; and

WHEREAS, the Parties (i) have engaged in good faith discussion regarding the matters set forth herein, (ii) believe that it is in the best interest of the Parties to enter into this Sixth Stipulation, and (iii) stipulate and agree as follows:

1. Briefing Schedule. The Parties agree to the following revised deadlines in connection with HSBC-HK's response to the First Amended Complaint:

- (a) The deadline for the Trustee to file an opposition to HSBC-HK's Motion to Dismiss the First Amended Complaint shall be **May 31, 2019**.
- (b) The deadline for HSBC-HK to file a reply to the Trustee's filing shall be **July 15, 2019**.

2. Oral Argument. Oral argument regarding the Motion to Dismiss the First Amended Complaint will take place on **August 22, 2019 at 2:00pm** EDT.

3. Reservation. The Reservation set forth in paragraph 3 of the Second Stipulation shall apply with equal force to this Sixth Stipulation.

4. Stipulation Effective Date. This Sixth Stipulation is effective as of the date this Sixth Stipulation is entered on the docket as "so ordered" by the Court (the "Stipulation Effective Date"). Pending approval of this Sixth Stipulation by the Court, each of the Parties agrees that it

is and will be bound by this Sixth Stipulation and waives any right to object to approval by the Court. In the event that this Sixth Stipulation is not approved by the Court, it will be null and void and have no force or effect whatsoever except as may be otherwise agreed in writing by the Parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, and in agreement herewith, each of the Parties has voluntarily and with knowledge of its rights executed this Sixth Stipulation as of the date first set forth below.

Dated: May 7, 2019

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*Special Litigation Counsel to William A.
Brandt, Jr., Chapter 11 Trustee for CFG
Peru Investments Pte. Ltd. (Singapore)*

IT IS SO ORDERED:

Dated: New York, New York
May 8, 2019

/s/ James L. Garrity, Jr.

Honorable James L. Garrity, Jr.
UNITED STATES BANKRUPTCY JUDGE